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THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The right to adequate housing

Note by the Secretariat

1. On 24 August 1995, at its forty-seventh session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted, without a vote, resolution 1995/27 in which it firmly endorsed the specific recommendations contained in chapter VIII of the final report of the Special Rapporteur on the right to adequate housing, Mr. Rajindar Sachar (E/CN.4/Sub.2/1995/12).

2. The Commission on Human Rights, at its fifty-second session in its resolution 1996/11 of 11 April 1996 on the question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, recognized the interest of the final report on the right to adequate housing submitted by Mr. Sachar.

Activities undertaken with respect to the right to adequate housing

3. In its resolution 1995/27, the Sub-Commission requested the United Nations High Commissioner for Human Rights "fully to incorporate activities directly relevant to the human right to adequate housing in his mandate, with a view to preventing violations of this right and generally promoting the realization of the right to adequate housing to the maximum extent possible".

4. In this regard, the Secretary-General would like to draw the attention of the Sub-Commission to the expert group meeting on the human right to adequate housing, convened in preparation for the United Nations Conference on Human Settlements (Habitat II). The meeting took place in Geneva from 18 to 19 January 1996. It was organized in response to resolution 15/2 of 1 May 1995 of the Commission on Human Settlements by which it requested the Executive Director of Habitat to undertake, in consultation with other relevant United Nations bodies, a further examination and update of his report entitled "Towards a housing rights strategy: practical contributions by UNCHS (Habitat) on promoting, ensuring and protecting the full realization of the human right to adequate housing" (HS/C/15/2/Add.2), taking into consideration the legal, social, economic, political and practical aspects of the subject and the views and concerns expressed by some member States, including those regarding the existence and/or legal status of the right to adequate housing. Pursuant to this resolution, the United Nations Centre for Human Settlements (Habitat) and the United Nations Centre for Human Rights decided to jointly organize an expert group meeting which would further examine the various aspects of the right to adequate housing.

5. In his opening statement at the expert group meeting, the United Nations High Commissioner for Human Rights referred to the extensive work of the human rights bodies and mechanisms dealing with the right to adequate housing. A representative of the United Nations Centre for Human Settlements recalled that the goal of housing for all was a central mandate of UNCHS and of the community of nations, as reflected in the Global Strategy for Shelter to the Year 2000 (General Assembly resolution 43/181 of 20 December 1988).

6. In its conclusions and recommendations, the expert group meeting noted with respect to the human right to adequate housing the following:

(a) The formulation "right to housing" is used clearly and unambiguously in the International Convention on the Elimination of All Forms of Racial Discrimination which is binding on close to 150 States parties;

(b) The view that while there is a right to an adequate standard of living there is no separate right to adequate housing has, to the knowledge of the experts, never previously been made in any United Nations forum either in relation to this right or to the right to adequate food or the right to adequate clothing, the status of which would be equally affected;

(c) No State party to the relevant Covenant has ever disputed the consistent use by the Committee on Economic, Social and Cultural Rights of the terminology according to which the right to adequate housing has always been treated as a separate and distinct right;

(d) The wording used in the relevant Covenant would, according to accepted canons of interpretation, result in the logical conclusion that the right to adequate housing exists, whether as part of a broader "umbrella" right or separately; in either case it is necessary to treat the right as having a distinct existence.

7. The expert group meeting also took note of the very extensive recognition accorded to the right to housing, again by the use of sometimes slightly varying formulations, in the context of a range of important international statements of law and policy.

8. The expert group meeting also noted that a significant number of national constitutions from all regions of the world accord explicit recognition to the right to housing. Legislation in many countries also recognizes central elements of that right such as the right to protection from forced evictions, the right to be free from racial and other forms of discrimination in relation to housing, the right to security of tenure, the right of tenants and other dwellers to organize freely, the right to preferential access to housing for vulnerable groups and the right to judicial remedies for violations of these rights.

9. The expert group meeting discussed the question of the appropriate role of the State in relation to the implementation of the right to adequate housing. The right does, however, imply certain obligations for the State. Among the core areas of the State role in realizing the human right to adequate housing are provision of security of tenure, prevention (reduction) of discrimination in the housing sphere, prevention of illegal and mass evictions, elimination of homelessness and promotion of participatory processes for individuals and families in need of housing. In specific cases, the State may have to provide direct assistance, including provision of housing units, to people affected by disasters (natural and man-made) and to the most vulnerable groups of the society. It noted that this right should not be interpreted as implying, inter alia, (a) that the State is required to build housing for the entire population; (b) that housing is to be provided free of charge by the State to all who request it; or (c) that the State must necessarily fulfil immediately all aspects of this right.

10. The expert group meeting considered that there is a pressing need for additional attention to be given to the elaboration of the normative content of the right to adequate housing and to measures which should be taken to implement, or give operational effect to, the right.

11. While the expert group meeting recognized the usefulness of such instruments, it considered that the drafting of a binding legal instrument such as a convention would more appropriately be considered at a later stage in the overall process. The expert group meeting considered that priority should be accorded to the preparation of principles and standard rules dealing with the practical implementation of the different aspects of the human right to adequate housing at the national level. It called upon the United Nations Centre for Human Settlements to take whatever measures are requested in order to begin a process of consultation and drafting with a view to producing such documents.

12. The expert group meeting agreed, furthermore, on the need to develop criteria for measuring progress towards the realization of the human right to adequate housing and for the strengthening of existing United Nations organizations and bodies in the development and promotion of this right. It was also agreed that the mechanisms for protecting this right and dealing with its violations should be strengthened.

13. The expert group meeting urged the United Nations Centre for Human Settlements to continue the constructive cooperation with the Centre for Human Rights by convening a meeting between the members of the Committee on Economic, Social and Cultural Rights and representatives of the United Nations Centre for Human Settlements with a view to identifying further measures that might be taken.

14. The expert group meeting also urged the Centre for Human Rights to develop a model advisory services programme which would give interested States an indication of the types of technical cooperation which could be made available to them in the context of the right to adequate housing.

Fourth World Conference on Women

15. Reference to the right to adequate housing was also made at the Fourth World Conference on Women, held in Beijing from 4 to 15 September 1995. Paragraph 31 of the Programme for Action (A/CONF.177/20, chap.I, annex II) reads:

> "Many women face particular barriers because of various diverse factors in addition to their gender. Often these diverse factors isolate or marginalize such women. They are, inter alia, denied their human rights, they lack access or are denied access to education and vocational training, employment, housing and economic self-sufficiency and they are excluded from decision-making processes. Such women are often denied the opportunity to contribute to their communities as part of the mainstream."

Technical cooperation in the field of human rights

16. The World Conference on Human Rights in 1993 reaffirmed that "all human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis". Accordingly, the programme of advisory services and technical cooperation in the field of human rights makes no functional distinction, and recognizes no hierarchy, vis-à-vis various sets of rights. Thus, all programme elements give due attention to economic, social and cultural rights, including the right to adequate housing.

17. As it has evolved over the past 40 years, the programme's focus is on strengthening national capacities to protect human rights through strong institutions, laws and policies. In this context, economic, social and cultural rights are addressed throughout the programme's activities, in each of the geographic areas in which it operates, with each of the target groups which it addresses, and on an equal footing with civil and political rights. These rights inform all stages of programme development, formulation, implementation, monitoring, evaluation and follow-up. Thus, for example, references to economic and social conditions are included in country profiles and needs assessments, recommendations for the increased realization of these rights are included in projects and activities for implementation, and the impact of such interventions is assessed in periodic and post-project evaluations.

Habitat II

18. In compliance with paragraph 6 of Sub-Commission resolution 1995/27 the Assistant Secretary-General for Human Rights addressed a letter to the Secretary-General of Habitat II in which he transmitted the Sub-Commission's recommendation to the Preparatory Committee for Habitat II "to take full account in its agenda, plan of action and final declaration of the views of the Special Rapporteur on the right to adequate housing, including those contained in his final report, and all other ongoing activities of the United Nations concerning housing rights, and to undertake explicitly identified activities with regard to the human right to adequate housing within and beyond the context of Habitat II".

19. The High Commissioner for Human Rights, the Assistant Secretary-General for Human Rights and the focal point of the Centre for Human Rights for Habitat II participated in the Second United Nations Conference on Human Settlements, which took place in Istanbul from 3 to 14 June 1996.

20. The High Commissioner for Human Rights, in his statement before the plenary meeting, informed the international community on the human rights aspects of the issue of housing, based on existing human rights instruments. He said that the right to adequate housing had been recognized since the adoption of the Universal Declaration of Human Rights in 1948 and enumerated the activities of the human rights treaty bodies and mechanisms dealing with that right.

21. The High Commissioner chaired a round table on "The human right to adequate housing", which was attended by experts in this field who discussed the legal dimensions of this right and the issue of arbitrary or forced evictions, as it related to the right to adequate housing.

22. Pursuant to General Assembly resolution 50/157, the Centre for Human Rights organized a ceremony during the Conference in order to celebrate and reflect upon the International Decade of the World's Indigenous People (1995-2004). The Assistant Secretary-General for Human Rights, in his capacity as Coordinator of the Decade, made an introductory statement in the plenary meeting and many delegations participated in the debate. In this context, a round table was also organized on "Indigenous people, shelter and land", chaired by the Assistant Secretary-General for Human Rights, with the participation of experts in this field.

23. The focal point of the Centre for Human Rights for Habitat II participated in the hearings of Committee II concerning the participation of the organizations of the United Nations system in the strategy for implementing the Habitat Agenda. In a presentation made on behalf of the High Commissioner for Human Rights/Centre for Human Rights, it was stated that, taking into account that all human rights were universal, indivisible and interdependent and interrelated, the right to adequate housing had been integrated into ongoing human rights activities. These activities were elaborated and proposals were made for the implementation of the strategies relating to human rights, as contained in the Plan of Action of the Habitat

Agenda, taking into account the coordinating role of the High Commissioner for Human Rights. The presentation was followed by a "dialogue", in which questions were put by member States and answers provided accordingly.

24. Most of the proposals and comments made by the High Commissioner for Human Rights/Centre for Human Rights on the right to adequate housing were incorporated in the final document of the Habitat II Conference.

25. At the Habitat II Conference member States reached consensus on the issue of the right to adequate housing, reaffirming their commitment "to promote, protect and ensure the full and progressive realization of the right to adequate housing".

26. A reference copy of the final document of the Habitat II Conference can be made available to the members of the Sub-Commission if it is issued before the end of the current session.

Publication of the final report of the Special Rapporteur

27. The final report of the Special Rapporteur on the right to adequate housing has been published as number 7 of the Human Rights Study Series in all the official languages of the United Nations.